IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Transfer Application No. 11 of 2004

Subhash Chandra Agarwal
S/o Sh. Omparkash Agarwal
R/o Behind Panth Park, Kashipur,
District – Udham Singh Nagar ..... Petitioner

Versus

1. Addl. Chief Judicial Magistrate,
Kashipur,
District – Udham Singh Nagar

2. Ram Kishore Arya
S/o Late Sh. Trilok Chand
R/o Shiv Nagar Colony, Kashipur
District – Udham Singh Nagar .....Respondents.

Sri Rakesh Thapliyal, learned counsel for the petitioner
Sri Mohd. Azim, learned counsel for the respondent no.2.

Hon'ble B.C. Kandpal, J.

This is an application for transfer of complaint case no. 176 of 1989 pending in the court of Judicial Magistrate, Rudrapur, Distt. Udham Singh Nagar to some other neighboring district u/s 407 of Cr.P.C.

Heard Sri Rakesh Thapliyal learned counsel for the applicant and Sri Mohd. Azim learned counsel for the respondent no.2.

This petition has been filed u/s 407 Cr.P.C. seeking transfer of the complaint case no. 176 of 1989 Subhash Chandra Agarwal Vs. Ram Kishore Arya & another u/s 406, 417, 418 and 420 I.P.C. pending in the court of Judicial Magistrate, Rudrapur, Udham Singh Nagar to any other court of outside the district of Nainital and Udham Singh Nagar and if possible in any other court situated outside the Kumaon region.

Learned counsel for the applicant has contended that there is a danger to the life of the applicant. Learned counsel for the applicant further stated that in case, if the

case is not transferred then his safety would be put in danger.

Having perused the record and after hearing the submission made from both sides, I am of the view that the applicant be provided police protection whenever he attends the court of Judicial Magistrate, Rudrapur, Udham Singh Nagar.

In view of the reason stated above, I think that this petition is liable to be dismissed.

The petition is accordingly dismissed.

However, the I.G. Kumaon range is directed to make necessary arrangements for taking the applicant, if need be, in police protection from Kashipur to the court of Judicial Magistrate, Rudrapur, Udham Singh Nagar on the date of hearing and return safely to his house at his own cost as and when required. The applicant shall bear his expenses with his own cost.

(B.C. Kandpal, J.)

23rd March, 2005
Shiv